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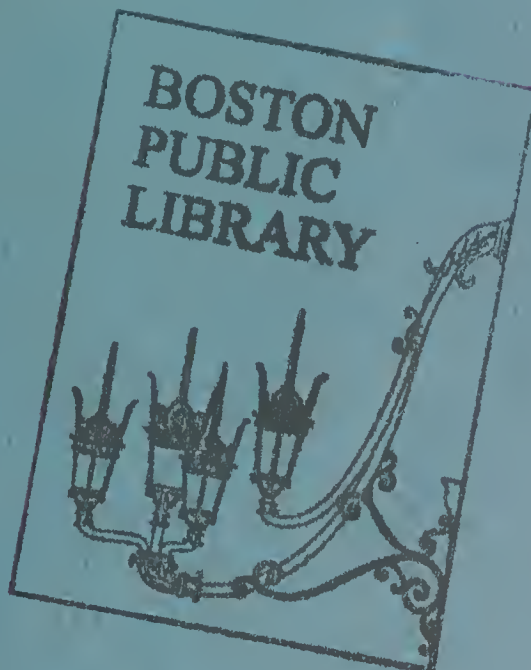
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THE LIBRARY
BOSTON PUBLIC LIBRARY
CITY 212 WEST 912
BOSTON

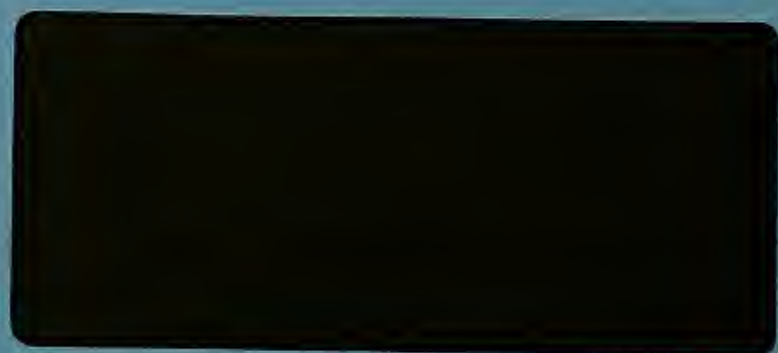
e City Council of Boston, as follows:

X Graves

Whereas a serious public emergency exists with
housing of a substantial number of the citizens



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B,





CITY OF BOSTON

Official copy
from City Clerk

IN THE YEAR NINETEEN HUNDRED AND SEVENTY

AN ORDINANCE

REGULATING CERTAIN RESIDENTIAL RENTS

AND EVICTIONS

THE LIBRARY
BOSTON REDEVELOPMENT AUTHORITY
City Hall - Room 912
Boston, Mass. 02201

BOSTON PUBLIC LIBRARY

Be it ordained by the City Council of Boston, as follows:

X Graves

Whereas a serious public emergency exists with respect to the housing of a substantial number of the citizens of Boston; and

Whereas the deterioration and demolition of existing housing and an insufficient supply of new housing have resulted in a substantial and critical shortage of safe, decent, and reasonably-priced rental housing accommodations; and

Whereas this emergency cannot be dealt with effectively by the ordinary operation of the private rental housing market, and, unless residential rents are regulated and controlled so that rents will not be increased unreasonably and landlords will receive a fair net operating income from housing accommodations, and unless evictions of tenants are regulated and controlled, such emergency and the inflationary pressures resulting therefrom will produce serious threats to the public health, safety and general welfare of the citizens of Boston;

NOW THEREFORE, pursuant to the authority vested in it by law, including, without limitation, Article 2, as amended, and Article 47 of the Amendments to the Constitution of the Commonwealth of Massachusetts and Chapter 797 of the Acts of 1969, as amended by Chapter 863 of the Acts of 1970, BE IT DECLARED by the City Council of the City of Boston, that a substantial and critical shortage of safe, decent and reasonably-priced rental housing units exists because of (1) the deterioration and demolition of existing housing, (2) an insufficient supply of new housing, and (3) inadequate municipal tools presently available to regulate residential rents;

AND, also pursuant to the authority vested in it by law, including, without limitation, Article 2, as amended, and Article 47 of the Amendments to the Constitution of the Commonwealth of Massachusetts and Chapter 797 of the Acts of 1969 as amended by Chapter 863 of the Acts of 1970, BE IT ORDAINED by the City Council of the City of Boston as follows:

SECTION 1. Definitions. When used in this ordinance, unless the context otherwise requires, the following terms shall have the following meanings:

(a) Board: the rent board established by section two.

(b) Capital improvement: any substantial rehabilitation, addition or improvement which appreciably adds to the value of the property or prolongs its life, or both, but not including ordinary repairs and maintenance.

(c) Class of housing accommodations; all housing accommodations within the city or any category of such housing accommodations based on size, age, construction, rent, location or other common characteristics.

(d) Executive director: the executive director of the board.

(e) Housing accommodation: any building or structure, permanent or temporary, located within the city, or any part or portion thereof, occupied or intended for occupancy by one or more individuals as a residence, not including the following:

(i) housing accommodations which the United States or the Commonwealth of Massachusetts or any authority created under the laws thereof either owns, or operates, or regulates the individual rents thereof, other than housing accommodations regulated under the provisions of Chapter 10 of the Ordinances of 1969 or of this ordinance, or finances or subsidizes; except federally subsidized buildings under the 207,220,221(d)3 and 236 programs.

(ii) housing accommodations in any building or structure containing no more than two dwelling units, or containing three dwelling units, one of which is occupied by the owner thereof as his permanent residence; provided that two or more adjoining buildings or structures under common legal or beneficial ownership shall constitute a single building or structure for this purpose.

(iii) housing accommodations created by new construction or by conversion from a non-housing use completed after December 1, 1968;

(iv) housing accommodations for which the monthly rent in effect on December 1, 1968, or, if there was no rent in effect on that date, the first rent in effect thereafter, was at least: one hundred and sixty dollars in the case of a studio; one hundred and eighty-five dollars in the case of a one-bedroom apartment; two hundred and thirty-five dollars in the case of a two-bedroom apartment; or two hundred and eighty-five dollars in the case of an apartment having three or more bedrooms.

(v) housing accommodations in condominiums and cooperatives.

(vi) housing accommodations in any motel, hotel, inn, college fraternity or sorority house, dormitory of an institution of higher education or private school, hospital, extended medical care facility, convent, monastery or non-profit home for aged.

(f) Housing services: services or facilities provided by a landlord or required by law or by the terms of a rental housing agreement to be provided by a landlord to a tenant in connection with the use and occupancy of any housing accommodation, including, without limitation: services, furniture, furnishings and equipment; repairs; decorating and maintenance; provision of light, heat, hot water, cold water, telephone and elevator service; kitchen, bath, and laundry facilities and privileges; use of halls, corridors, stairs, common rooms, yard, and other common areas; maid service, linen service, janitor service, removal of refuse and parking facilities.

(g) Landlord: an owner, lessor, sublessor or other person entitled to receive rent for the use and occupancy of any housing accommodation, or an agent of any of the foregoing.



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(h) Operating and maintenance expenses: the reasonable and necessary expenses to a landlord of providing housing services to a tenant, including but not limited to maintenance, repair, management fee, real estate broker's commission, insurance, utilities included within the rent, but not including mortgage interest and amortization nor an allowance for obsolescence or depreciation.

(i) Person: an individual, corporation, partnership, association or other organized group of individuals or the legal successor or representative of any of the foregoing.

(j) Rent: the consideration paid or payable, according to the terms of a rental housing agreement, for the use and occupancy of a housing accommodation or for the transfer of a lease to a housing accommodation.

(k) Rental housing agreement: an agreement, verbal, written or implied, between a landlord and a tenant for use and occupancy of a housing accommodation and for housing services.

(l) Tenant: a tenant, subtenant, lessee, sublessee or other person, entitled under the terms of a rental housing agreement to the use and occupancy of any housing accommodation.

SECTION 2. Rent Board. (a) Composition. There shall be in the city a board, known as the Rent Board, consisting of five residents of the city appointed by the mayor, including one tenant who owns no housing accommodations, one landlord who owns or manages at least twenty rental units in the city and three members representing the public interest, none of whom may own or manage more than three rental units in the city. Members of the board shall be

be appointed for a term expiring on the first Monday of the January following the next biennial municipal election at which a mayor is elected. Vacancies shall be filled, for the unexpired term, by the mayor. The board shall elect one of its members as chairman to serve in that capacity for a term of one year.

(b) Compensation. Each member of the board shall receive for every day or part thereof of actual service fifty dollars.

(c) Powers and duties. The board shall, as provided in sections 3, 4 and 5, establish and adjust the maximum rent that may be charged for housing accommodations, and shall grant or deny certificates of eviction as provided under section 8. The board may at the request of any landlord, render a binding advisory opinion as to the permissible impact of a proposed capital improvement on the rents.

(d) Regulations. The board shall have power to promulgate such rules and regulations as are not inconsistent with this ordinance including without limitation regulations under section 3 and section 5 and regulations establishing a schedule of standard rental increases or decreases for improvement or deterioration in specific services and facilities.

(e) Investigations. The board shall gather studies and information concerning the supply and quality of housing of all types, and regarding the level of and changes in rents and prices of consumer commodities, and shall report to the mayor and the city council semi-annually on such matters.

SECTION 3. Adjustment of Rents. The board shall have jurisdiction over any case brought by or on behalf of a tenant seeking either a reduction of his present rent in accordance with subsection (a) of this section, or relief from a rent increase effective after the effective date of this ordinance. The Board may at its discretion initiate a complaint on behalf of a tenant or tenants where rental levels or housing conditions so violate community standards as to warrant public action. In any such case the board shall have power to set the rent at a level equal to the base rent, as defined in this section, adjusted upward or downward in conformity with the provisions of this section.

(a) Base Rent. The base rent shall be the rent in effect on December 1, 1968, or, if there was no rent in effect on that date, then the first rent in effect thereafter; or any adjusted rent last established in conformance with chapter 10 of the ordinances of 1969 provided, however, that if the landlord can demonstrate that said rent was insufficient to yield a fair return on the property as of said date, the board shall set as the base rent such higher amount as would have been necessary to yield a fair net operating income to the landlord on that date.

SECTION 4. Adjustment of Maximum Rent and Proceedings Before the Board. (a) Notice. A landlord shall notify the board and the tenant or occupant, if any, of the amount of a rent increase for a housing accommodation, in writing, prior to the proposed effective date of such increase. Notice to the tenant or occupant shall include, on a form previously approved by the board, a statement of the rent in effect December 1, 1968, or any adjusted rent last established in conformance with Chapter 10 of the Ordinances of 1969, a statement of the rent presently paid for the accommodation, of the tenant's or occupant's right to appeal such

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increase to the board, and of information as to the procedures for instituting such an appeal. In the case of an existing tenancy, notice shall be given at least thirty days prior to the proposed effective date. In case of a vacancy, notice shall be given to the Board and the new tenant prior to the effective date of the new tenancy. The Board may disapprove the increase any time within 45 days. A tenant or occupant wishing to oppose a rent increase shall register a complaint on a form to be provided by the executive director within fourteen days of receipt of said notice of the proposed increase; provided that upon a showing of good cause or excusable neglect, the said fourteen-day period may be extended by the board for a further period of no more than thirty days. No rent increase shall be effective unless the landlord has complied with the provisions of this section, and unless the Board has not denied the increase within 45 days.

(b) Adjustment. On complaint registered under Section 4(a), or actions initiated under Section 3, the Board shall by order make such adjustments either upward or downward, of the base rent for any housing accommodation as may be necessary to remove hardships or correct other inequities and in so doing shall observe the principle of maintaining rents for housing accommodations at levels which will yield to the landlords a fair net operating income from such housing accommodations.

(c) FAIR NET OPERATING INCOME. In determining whether the maximum rent for housing accommodations yields a fair net operating income, the board shall consider the following among other relevant factors:

(i) increases or decreases in property taxes; that is, the tenant's proportionate share as it relates to the number of housing

accommodations in the taxed parcel assessed pro-rata depending on the amount of space occupied and the rent charged. Further, that in the event that owner of said parcel received any form of tax relief for the year in which the additional tax was added to the tenant's rent, the landlord shall be responsible for crediting the tenants with a proportionate share of said tax relief.

(ii) unavoidable increases or any decreases in operating and maintenance expenses;

(iii) capital improvement of the housing accommodations;

(iv) increases or decreases in living space or housing services; and

(v) substantial deterioration of the housing accommodations, other than ordinary wear and tear, or failure to perform ordinary repair, replacement or maintenance.

(d) Upon receipt of a complaint by a tenant the Board shall send a written notice to the landlord and a copy to the tenant, containing a description of the case and informing either party of his right to request a hearing by notifying the Board of such request by certified mail within ten days of receipt of such notice. If a hearing is timely requested by either party, notice of the time, place and purpose of the hearing shall be furnished to the landlord and tenant and the hearing shall be conducted before at least one member of the board prior to the decision by the board to grant or deny an adjustment of base rent. The board may consolidate complaints relating to housing accommodations in the same building, and all such complaints may be considered in a single hearing.

(e) Notwithstanding any provisions of this section the Board may refuse an upward adjustment of maximum rent if it determines that the effective housing accommodation does not comply with the State

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Sanitary Code or the Boston Building Code or Fire Prevention Code and such lack of compliance is not caused by the tenant's neglect or misconduct and the landlord has been given 15 days notice of such non-compliance. The Board may refuse to make a downward adjustment of a base rent if it determines that the tenant is more than 30 days in arrears in payment of rent unless such arrearage is authorized by law.

(v) substantial deterioration of the housing accommodations, other than ordinary wear and tear, or failure to perform ordinary repair, replacement or maintenance.

(c) Denial of Adjustment. Notwithstanding any other provision of this section, the board may refuse to grant an upward adjustment of maximum rent if it determines that the affected housing accommodation does not comply with the State Sanitary Code or the Boston Building Code or the Boston Fire Prevention Code and such lack of compliance is not caused by the tenant's neglect or misconduct. The board may refuse to make a downward adjustment of maximum rent if it determines that the tenant is more than thirty days in arrears in payment of rent, unless such arrearage is authorized by law.

SECTION 5. (a) Limitation of Petitions for Individual Adjustment. Notwithstanding any other provision of this ordinance, the board may, without holding a hearing, refuse to adjust the maximum rent of an individual housing accommodation if a hearing has been held with regard to the maximum rent of such housing accommodation within twelve months unless there has been a change in the tenancy since the hearing was held.

(b) Legal Assistance. The Board shall satisfy itself that each tenant who brings proceedings before the board shall have available such legal assistance as is reasonably necessary to prosecute effectively his case before the board.

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SECTION 6. Provision of Information.

Upon receipt by the board of a petition for adjustment of a maximum rent, or upon action initiated by the board for adjustment of a maximum rent, the landlord shall furnish to the executive director, within seven days after his written demand therefor, information pertaining to the housing accommodation or accommodations involved in the petition or action and to the building or structure wherein such housing accommodation is located on a form approved by the executive director.

Whoever fails to file or withholds any information required to be filed by this ordinance or whoever knowingly gives false statements in connection therewith shall in addition to other penalties under section 10, be subject to a fine of up to fifty dollars per day for each such failure or false statement, and, in the case of a landlord seeking an upward adjustment of maximum rent, may be denied such adjustment in its entirety.

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SECTION 7. Executive Director and Staff. The board shall employ an executive director and such additional staff as may be necessary to perform the following functions:

(a) Investigate at the request of the board any petition or action for a rent adjustment brought under section 5 and any application for a certificate of eviction brought under section 8.

(b) Seek to resolve any rental dispute by voluntary agreement of the parties.

(c) refer any appropriate matter to the assessing, building, fire or housing inspection departments, and

(d) bring appropriate proceedings in a court of law to enforce any order of the board.

SECTION 8. Evictions. (a) No person shall bring any action to recover possession of a housing accommodation unless:

(i) the tenant has failed to pay the rent to which the landlord is entitled;

(ii) the tenant has violated an obligation or covenant of his tenancy other than the obligation to surrender possession upon proper notice and has failed to cure such violation after having received written notice thereof from the landlord;

(iii) the tenant is committing or permitting to exist a nuisance in, or is causing substantial damage to, the housing accommodation, or is creating a substantial interference with the comfort, safety or enjoyment of the landlord or other occupants of the same or any adjacent accommodation;

(iv) the tenant is convicted of using or permitting a housing accommodation to be used for any illegal purpose;

(v) the tenant, who had a written lease or rental agreement which terminated on or after the passage of this ordinance has refused, after written request or demand by the landlord, to execute a written extension or renewal thereof for a further term of like duration and in such terms as are not inconsistent with or violative of any provisions of this ordinance;

(vi) the tenant has refused the landlord reasonable access to the housing accommodation for the purpose of making necessary repairs or improvements required by the laws of the United States, the commonwealth, or any subdivision thereof, or for the purpose of inspection as permitted or required by the lease or by law, or for the purpose of showing the housing accommodation to any prospective purchaser or mortgagee;

(vii) the tenant holding at the end of a lease term is a subtenant not approved by the landlord;

(viii) the landlord seeks to recover possession in good faith for use and occupancy of himself, or his children, parents, brother, sister, father-in-law, mother-in-law, son-in-law, or daughter-in-law;

(ix) the landlord seeks to recover possession to demolish or otherwise remove the housing accommodation from housing use; ✓

(x) the landlord seeks to recover possession for any other just cause, provided that his purpose is not in conflict with the provisions and purposes of this ordinance.

(b) A landlord seeking to recover possession of a housing accommodation shall apply to the board for a certificate of eviction.

Such application shall be made on a form approved by the executive director, and a copy thereof shall simultaneously be sent to the tenant by registered or certified mail, return receipt requested. ✓

The tenant may request a hearing on such application within five days after receipt by him of his copy thereof, and if requested, such hearing shall be scheduled within five days thereafter. Notice of the time, place and purpose of the hearing shall be furnished to the landlord and tenant and the hearing shall be conducted before at least one member of the board prior to the decision of the board to grant or deny the certificate of eviction. If the board finds that the facts attested to in the landlord's petition are valid and in compliance with subsection (a) of this section, the certificate of eviction shall be issued. Any application shall be deemed to have been granted unless denied by the board within fifteen days of the hearing on such application; provided, that an application for eviction based on non-payment of rent shall be deemed to have been granted unless denied within five days of such hearing.

(c) A landlord who seeks to recover possession of a housing accommodation without a certificate of eviction shall be deemed to have violated this ordinance, and the board shall initiate a criminal prosecution for such violation.

Notwithstanding the provisions of this section the United States, the Commonwealth or any agency or political subdivision thereof may maintain an action or proceeding to recover possession of any housing accommodations operated by it where such action or proceeding is authorized by the statute or regulation under which such accommodations are administered.

The provisions of this section shall be construed as additional restrictions on the right to recover possession of a housing accommodation. No provision of this section shall entitle any person

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to recover possession of such a housing accommodation. Upon a decision of said board concerning the granting or withholding of a certificate of eviction, either party concerned may appeal to the district court within the jurisdiction of which the housing accommodation involved is located.

SECTION 9. Civil Remedies. (a) Any person who demands, accepts, receives, or retains any payment of rent in excess of the maximum lawful rent, in violation of the provisions of this ordinance, or any rule, regulation, or order hereunder promulgated, shall be liable as hereinafter provided to the person from whom such payment is demanded, accepted, received, or retained, or to the city for reasonable attorney's fees and costs as determined by the court, plus liquidated damages in the amount of one hundred dollars, or not more than three times the amount by which the payment or payments demanded, accepted, received, or retained exceed the maximum rent which could be lawfully demanded, accepted, received or retained, whichever is the greater; provided that if the defendant proves that the violation was neither willful nor the result of failure to take practicable precautions against the occurrence of the violation, the amount of such liquidated damages shall be the amount of the overcharge or overcharges.

(b) If the person from whom such payment is demanded, accepted, received, or retained in violation of the provisions of this ordinance or any rule, regulation, or order hereunder promulgated fails to bring an action under this section within thirty days from the date of the occurrence of the violation, the board may settle the claim arising out of the violation or bring such action.

Settlement by the board shall thereafter bar any other person from bringing action for the violation or violations with regard to which a settlement has been reached. In the event the board settles said claim, it shall be entitled to retain the costs it incurred in the settlement thereof, and the person against whom the violation has been committed shall be entitled to the remainder. In the event the city brings action under the provisions of this section, it shall be entitled to receive attorney's fees and costs under the provisions of paragraph (a) and the person against whom the violation was committed shall be awarded liquidated damages under the provisions of said paragraph (a).

(c) A judgment for damages or on the merits in any action under this section shall be a bar to any recovery under this section or in any other action against the same defendant on account of any violation with respect to the same person prior to the institution of the action in which such judgment was rendered. Action to recover liquidated damages under the provisions of this section shall not be brought later than one year after the date of the violation. A single action for damages under the provisions of this section may include all violations of the provisions of this section committed by the same defendant against the same person.

(d) The district court for the judicial district within which the housing accommodation affected is located shall have exclusive original jurisdiction over all actions and complaints brought under this section.

SECTION 10. Criminal Penalties. (a) It shall be unlawful for any person to demand, accept, receive, or retain any rent for the use or occupancy of any housing accommodations in excess of the maximum rent prescribed therefor under the provisions of this ordinance or the rules, regulations or orders hereunder promulgated, or otherwise to do or omit to do any action in violation of the provisions of this ordinance or the rules, regulations or orders hereunder promulgated.

(b) It shall be unlawful for any person to demand, accept, receive or retain any payment which exceeds the maximum lawful rent for one month as a finder's fee or service charge for the opportunity to examine or lease any housing accommodation and no finder's fee or service charge shall be lawful unless the person from whom the payment is demanded, accepted, received or retained actually rents or leases the housing accommodation with regard to which payment of said fee or said charge has been demanded, accepted, received or retained.

(c) Whoever willfully violates any provision of this ordinance or any rule, regulation or order hereunder promulgated or whoever knowingly makes any false statement in any testimony before the board or whoever knowingly supplies the board with any false information shall be punished by a fine of not more than five hundred dollars or by imprisonment for not more than ninety days or both; provided, however, that in the case of a second or subsequent offense, such person shall be punished by a fine or not more than three thousand dollars or by imprisonment for not more than one year or both.

SECTION 11. Injunctions. The superior court shall have jurisdiction in equity to restrain by injunction any violation of this ordinance and of rules, regulations, and orders promulgated by the board.

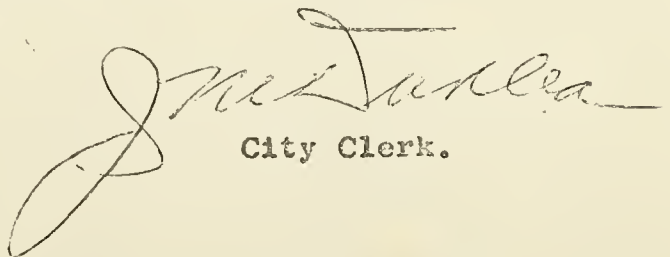
SECTION 12. Duration. This ordinance shall remain in effect until December 31, 1972, or until a prior determination by the mayor and city council that the present rental housing emergency no longer exists.

SECTION 13. Constitutional Construction. The provisions of this ordinance are severable, and if any of its provisions shall be held unconstitutional or otherwise invalid by any court of competent jurisdiction, the decision of such court shall not affect or impair any of the remaining provisions.

SECTION 14. Repealer. Chapter 10 of the Ordinances of 1969 is repealed. Orders issued by the Board of Rent Appeals under the provisions of said Chapter 10 in effect on the effective date of this ordinance shall remain in effect according to their terms. Any matter pending before said Board of Rent Appeals on the effective date of this ordinance shall be considered by the board as if brought in accordance with the provisions of this ordinance.

In City Council November 30, 1970, passed, yeas eight, nays one.
Returned disapproved by Mayor December 21, 1970.
In City Council December 28, 1970, passed notwithstanding the disapproval of the Mayor, yeas six, nays three.

Attest:


City Clerk.

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Boston, City of

Regulating Certain Residential Rents and Evictions.

DATE

ISSUED TO

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